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Unsecured Creditors

**IN THE UNITED STATES BANKRUPCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In Re:)	Bankruptcy Nos. 02-22906 GEC
)	02-22907 GEC
SIMON TRANSPORTATION SERVICES)	02-24874 GEC
INC., DICK SIMON TRUCKING, INC. and)	(Chapter 11)
SIMON TERMINAL, LLC,)	[SUBSTANTIVELY CONSOLIDATED]
)	
Debtors.)	Judge Glen E. Clark
)	

**UNSECURED CREDITORS' COMMITTEE OBJECTION TO
MASSACHUSETTS DEPARTMENT OF REVENUE AND
COMMONWEALTH OF MASSACHUSETTS
PROOFS OF CLAIM NOS. 419 AND 6**

The Official Committee of Unsecured Creditors (the "Committee"), by and through its counsel, Fabian and Clendenin, hereby objects, pursuant to 11 U.S.C. § 502 and Rules 3003 and

3007 of the Federal Rules of Bankruptcy Procedure, to Proofs of Claim Nos. 419 filed by the Massachusetts Department of Revenue and 6 filed by the Commonwealth of Massachusetts in the above case. In support of the objection, the Committee states:

1. Debtors, Simon Transportation Services, Inc. and Dick Simon Trucking, Inc. filed their voluntary Chapter 11 petitions on February 25, 2002. Simon Terminal, LLC filed a voluntary Chapter 11 petition on March 26, 2002. The cases were jointly administered.

2. On April 22, 2002, the Court entered an order authorizing the sale of substantially all of the Debtors' assets to Central Refrigerated Service, Inc.

3. On March 5, 2002, the Court entered an order fixing August 26, 2002 as the deadline to file proofs of claim.

4. On March 12, 2003, the Court entered its *Order Confirming Amended Joint Plan of Liquidation* ("Confirmation Order") in the above jointly administered cases. Pursuant to the Amended Joint Plan of Liquidation the estates of the Debtors were substantially consolidated, and all property of Debtors vested in a consolidated estate (the "Estate") under the exclusive control of the Committee. The Committee was designated as the representative of the Estate pursuant to 11 U.S.C. § 1123(b)(3)(B) and given all necessary authority to administer the Estate, including the authority to object to claims. *See, Second Amended Joint Plan of Liquidation*

Dated December 27, 2002, ¶ 6.4.

5. Based upon the foregoing, the Committee objects to the following claims:

Claim No. 419 – Massachusetts Department of Revenue (Case No. 02-22906)

The Massachusetts Department of Revenue filed Claim no. 419 in Case No. 02-22906 on April 26, 2002, asserting an unsecured priority claim pursuant to Section 507(a)(8) in the amount of \$663.08. Of this amount, \$462.59 relates to income tax for the tax period ending September 30, 2002. The Committee objects to this portion of the claim as duplicative of claim 6. The Committee agrees with the February 28, 2002 withholding tax of \$75.11 and allowed interest of \$60.09 and submits that this portion should be allowed as a priority claim to the extent of \$135.20.

Claim No. 6 – Commonwealth of Massachusetts (Case No. 02-22907)

The Commonwealth of Massachusetts filed claim no. 6 in Case No. 02-22907 asserting a priority claim in the amount of \$975.36 for withholding taxes for March 2002 and April 2002 and income taxes for the period ending September 30, 2002. The Committee objects to the withholding portion of the claim as duplicative of claim no. 419. The Committee has prepared tax returns and acknowledges a \$456.00 corporate tax claim for the September 30, 2002 tax period.

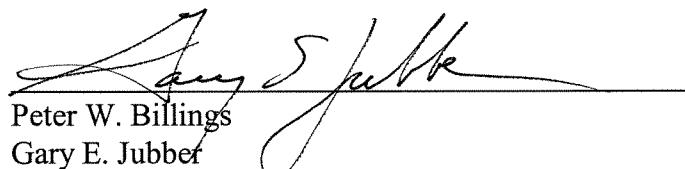
Accordingly, the Committee acknowledges a priority claim in that amount of \$456.00 and submits the balance of the claim should be disallowed.

WHEREFORE, the Committee seeks entry of an order:

1. allowing claim no. 419 as a priority claim in the amount of \$135.20 and disallowing the balance of the claim; and

2. allowing a priority claim pursuant to claim no. 6 in the amount of \$456.00 and disallowing the balance of the claim; and
3. for such other and further relief as the Court deems appropriate.

DATED this 18th day of September, 2003.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed, postage fully prepaid, this 19th day of September, 2003.

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